

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.943 of 2004

Date of Decision: 19.03.2007

Darshan Kumar & Ors.

..Petitioners

Vs.

Ravi Nandan & Ors.

..Respondents

Coram: Hon'ble Mr. Justice Vinod K.Sharma

Present: Mr.Akshay Bhan, Advocate,
for the petitioner.

Mr.Alok Jagga, Advocate,
for the respondents.

Vinod K.Sharma,J. (Oral)

Present revision petition has been filed against an order passed by the learned Appellate Authority ordering eviction of the petitioner from the shop in dispute.

The respondent-landlord has sought ejectment of the petitioner on the ground of non-payment of rent, sub-letting, cease to occupy and that the building has become unfit and unsafe for human habitation. On payment of rent due the ground of non-payment of arrears of rent was given up.

The learned Rent Controller held that the respondent-landlord has failed to prove sub-letting and there was no evidence to show that the petitioner had ceased to occupy the building. However, on the ground of building being unfit and unsafe the learned Rent Controller was pleased to hold that though the roof of one of the rooms has fallen down still that could not be a ground to say that the building has become unfit and unsafe for human habitation as the same could be repaired.

However, the learned Appellate Authority reversed the finding of the learned Rent Controller on the ground of building being unfit and unsafe though passing reference has also been made to reverse the finding on the other two grounds also. The learned Appellate Authority with the consent of the parties had appointed Local Commissioner to check the condition of the building and keeping in view the fact that the roof of one of the rooms has fallen down and also other material brought on record by way of Local Commissioner report, recorded a finding of fact that the building has become unfit and unsafe for human habitation and thus, allowed the appeal filed by the respondent-landlord.

Mr. Akshay Bhan, learned counsel appearing on behalf of the petitioner has challenged the finding of the learned Appellate Authority on the ground of sub-letting and ceased to occupy primarily on the ground that no reason, whatsoever, has been given to reverse the findings recorded by the learned Rent Controller. There is force in this contention. However, the petitioner cannot succeed as the finding on the ground of building being unfit and unsafe does not suffer from any error. Reliance by the learned counsel for the petitioner on the judgment of Supreme Court in the case of

Piara Lal Vs. Kewal Krishana Chopra 1988 (2) Rent Control Reporter

32 cannot be of any help as in the said case there was an order passed under Section 12 of the East Punjab Urban rent Restriction Act, 1949 in favour of the tenant for replacement of roof and also on the fact that there was no other evidence regarding building being unfit and unsafe. Whereas, in the present case besides the falling of roof there is other evidence brought on record showing that the building has become unfit and unsafe for human habitation. Accordingly, there is no merit in the present petition.

Dismissed.

March 19,2007
rp

(Vinod K.Sharma)
Judge